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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/705,784	11/11/2003	Stephen F. Ridley	HMD-I	5220

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EXAMINER

JAWORSKI, FRANCIS J

ART UNIT	PAPER NUMBER
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3768

SHORTENED STATUTORY PERIOD OF RESPONSE	MAIL DATE	DELIVERY MODE
3 MONTHS	01/17/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

If NO period for reply is specified above, the maximum statutory period will apply and will expire 6 MONTHS from the mailing date of this communication.

NT

Office Action Summary	Application No. 10/705,784	Applicant(s) RIDLEY ET AL.	
	Examiner Jaworski Francis J.	Art Unit 3768	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 07 November 2006.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1,3-8,10-13,30,31,33,42-47,49,50,52-54 and 56-76 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 76 is/are allowed.
- 6) ☒ Claim(s) 1,3-6,10-13,30,31,33,42-47,49,50,52-54 and 56 - 75 is/are rejected.
- 7) ☒ Claim(s) 7 - 8 is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- | | |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892) | 4) <input type="checkbox"/> Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948) | 5) <input type="checkbox"/> Notice of Informal Patent Application |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO/SB/08)
Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____ |

DETAILED ACTION

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

Claims 1, 3 – 6, 10 – 11, 28, 30 – 31, 33, 42 – 44, 49 – 50, 62, 65 – 67, 70, 73
-74 ~~76~~ are rejected under 35 U.S.C. 102(b) as being anticipated by Jingu
(US4491137).

In Jingu (refer to the patent face figure and Figures 6 – 8) a medical probe device comprises an ultrasound linear array transducer assembly 21 (stylized in Fig. 6 but analogously including a housing 1 having a base and a probe guide opening 2 perpendicular thereto and receiving a transducer array into the housing), and a removable sterile seal with non-compliant 40 and compliant portions 10 cooperable therewith, the seal including a probe guide 36, 37) and adapted by virtue of 10 to enclose the housing cavity while providing unimpeded biopsy probe passage therethrough, and clamp 34 of Fig. 6 which when used with the Fig. 7 – 8 apparatus, dependent on the relative size of the needle is capable of frictionally clamping or securing the inserted needle at a predetermined depth position in the assembly while the array provides a regional sonogram display. Portions of the sterile seal are additionally characterizable as attachable 'top' and 'bottom' portions.

With respect to practice of the method, the user would hold the needle at the predetermined position as essential to a targeted biopsy for which the device is intended.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claims 12 – 13, 45 – 47, 52 – 54, 56 – 61, 63 – 64, 69, 71 – 72, 75 are rejected under 35 U.S.C. 103(a) as being unpatentable over Jingu in view of Enjoji (US4289139), and Vilkomerson as set forth in the earlier action since when one has discrete angled passageways in the guide insert as in Fig. 5 of Enjoji then the needle trajectory may be virtually tracked in real time per Vilkomerson.

Claim 68 is rejected under 35 U.S.C. 103(a) as being unpatentable over Jingu as applied to claim 62 above, and further in view of Kopp, since as noted earlier the latter teaches that the front transducer face may be arcuate when in at least partial surroundment of the probe guide..

Allowable Subject Matter

Claims 7 – 8 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Claim 76 is allowed.

Response to Arguments

The amendatory language yet reads against the Jingu patent which includes a combined compliant and non-compliant sterile seal encirclement and a portion capable of clamping a through-protruding needle.

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of

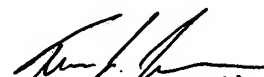
Art Unit: 3768

the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication should be directed to Jaworski Francis J. at telephone number 571-272-4738.

FJJ:fjj

01052007



Francis J. Jaworski
Primary Examiner

